



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 489: 2021 Building Code and Dev. Reg. Reform.

2021-2022 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	Date:	August 4, 2021
Introduced by:	Reps. Brody, Riddell, D. Hall, Hunter	Prepared by:	Howard Marsilio
Analysis of:	PCS to Third Edition H489-CSBG-21		Staff Attorney

OVERVIEW: House Bill 489 would make changes to laws that apply to general contractors; the State Building Code; and various laws pertaining to development regulation by local governments and under Chapter 160D of the General Statutes including:

- Authorizing the State Licensing Board for General Contractors to require criminal background checks for licensure applicants, and making other changes to the laws that relate to the Board.
- Requiring the Building Code Council to obtain objective economic analysis or cost-benefit analysis on certain proposed amendments to the State Building Code.
- Establishing the beginning point for measuring sight distances at street intersections.
- Limiting the need for separate erosion control plans for development of individual residential lots where an approved master erosion control plan exists; providing for developer options when submitting erosion control plans for development of multiple residential lots; and prohibiting requiring a silt fence where certain topographic features exist.
- Requiring the Building Code Council to adopt rules amending the North Carolina Fire Code, and the North Carolina Residential Code and Plumbing Code.
- Modifying Section 4 of S.L. 2020-61 with new definitions and clarifications to that section.
- Requiring DOT to add transportation improvements intended to be designated as public to the State highway system for maintenance within 90 days.

CURRENT LAW:

The State Licensing Board for General Contractors is the licensing board for general contractors in North Carolina. A general contractor's license is required for persons who bid upon or construct any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars (\$30,000) or more. The State Building Code (Code) is adopted by the Building Code Council (Council), a 17-member board appointed by the Governor. The Council may consider Code amendments on its own motion or upon application of citizens, State agencies, or political subdivisions of the State and must conduct a cost-benefit analysis for all proposed changes to the North Carolina Energy Conservation Code. A city has authority to classify its streets according to street size and traffic load and to establish minimum set back requirements from the right-of-way line or the center line of an existing or proposed street. North Carolina law requires approval of an erosion and sedimentation control plan (Plan) prior to conducting a land-disturbing activity that disturbs more than one acre. Plans are approved, administered, and enforced by the Department of Environmental Quality or by a city or county having

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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local erosion control program approved by the North Carolina Sedimentation Control Commission. Current North Carolina Building Code requires two separate and approved fire apparatus access roads for one- or two-family developments where the number of dwelling units exceeds 30, except two direction access is not required on a single public or private fire apparatus access road when the dwellings are equipped with approved automatic sprinkler systems. Current North Carolina Residential Code and Plumbing Code specifies acceptable industry standard conformance requirements for specific materials for water service pipes, however, American Water Works Association C900 is not included as an acceptable industry standard for Polyvinyl chloride (PCV) plastic pipe for water service pipes.

BILL ANALYSIS:

Sections 1.(a) and 1.(b), effective January 1, 2022, would authorize the State Licensing Board for General Contractors to:

- Require criminal background checks for general contractor licensure applicants and make that information confidential.
- Approve providers and instructors of general contractor continuing education courses and require providers to register their affiliated instructors with the Board.
- Allow licensees who do not complete their continuing education requirement to request "inactive status" on an annual basis.

Sections 1.(c)-1.(d), effective when law, would:

- Require a court to award attorney's fees of up to \$5,000 plus court costs to the State Licensing Board for General Contractors when it prevails in injunctive actions enforcing its rules or regulations.
- Require the State Licensing Board for General Contractors to adopt temporary rules to implement Sections 1.(a) and 1.(b) of this act.

Section 2, effective when law, would:

- Require the Building Code Council, when considering a proposed amendment to the State Building Code, to obtain an economic analysis or cost-benefit analysis on the proposed amendment other than from one submitted by the proponent of the amendment unless the amendment was submitted by the Council, a State agency, or political subdivision of the State.

Section 3, effective when law, would:

- Require cities to establish a point within the roadway or edge of pavement of a proposed or existing street as the beginning point for measuring setbacks for sight distances at street intersections, including sight triangles.
- Limit fees charged under local erosion control programs to that authorized in G.S. 113A-60(a) as amended by Section 5.(c) of this act.

Section 4, effective when law, and applicable to inspections conducted on or after that date would:

- Prohibit local governments from charging fees to inspect for compliance with the North Carolina Residential Code for One- and Two-Family Dwellings where all of the following apply:
 - The new violation was discovered during an inspection to verify completion or correction of Code violations from a previous inspection.
 - The new violation was within an area of work for which a final inspection has already been conducted.

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Section 5.(a) and 5.(b), effective when law, would:

- On single family residential lots involving new construction disturbing less than one acre where the developer owns the lot being developed, transfer financial responsibility for erosion control from the developer to the new owner when the developer conveys the lot to the new owner, records the deed, and notifies the approval authority.
- Clarify the statutory authority for local erosion control programs to assess fees for erosion control plan review.

Section 5.(c), effective October 1, 2021, and applicable to erosion control plans submitted for review and approval on or after that date, would:

- Set the fee under local erosion control programs for plan review and the basis for calculating the fee upon either of the following:
 - The number of acres disturbed.
 - The number of lots developed.
- Prohibit local erosion control programs from requiring a separate erosion control plan for development of a residential lot disturbing less than one acre where an approved erosion control plan exists for the entire development and the developer and builder are the same financially responsible person. Where the developer and builder are not the same person financially responsible, provides that the local government may only require the developer to submit the following for approval:
 - Information to identify the lot owner.
 - The lot address, number, parcel number, subdivision, acreage being developed, and acreage being disturbed.
 - The anticipated start and completion date.
 - Name & signature of person financially responsible.
 - A sketch plan showing the erosion control measures planned for the lot; The sketch plan is not required to be under professional seal.
- Except as may be required by federal law, provide that local erosion control programs:
 - May not require self-inspections or installation of rain gauges on residential lots where less than one acre is being disturbed.
 - Must allow a developer developing more than one residential lot where the total land disturbance exceeds one acre to submit for approval, a single erosion control plan for all the lots, or on lots where less than one acre is being disturbed, to submit for approval, the lot information and sketch plan as set forth above.
- Prohibit local erosion control programs from requiring silt fences or other erosion control measures where due to the contour and topography of the development site, the silt fence would not substantially and materially retain the sediment generated by the land disturbing activity.

Section 5.(d), effective when law, would:

- Provide that a silt fence damaged or destroyed during land disturbance cannot be assessed a civil penalty if repaired within the compliance period noted in an inspection report.

Sections 6.(a)-6.(f), effective when law, would:

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- Provide that automatic sprinkler systems in one- or two- family dwellings would not be required where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction until the North Carolina Building Code Council develops a Code amendment pursuant to this section. This section expires on the date that rules adopted pursuant to this section become effective.

Sections 7.(a)-7.(f), effective when law, would:

- Provide that American Water Works Association C900 would be an acceptable industry standard for Polyvinyl chloride (PCV) plastic pipe for water service pipes under the North Carolina Residential Code and Plumbing Code until the Building Code Council develops a Code amendment pursuant to this section. This section expires on the date that rules adopted pursuant to this section become effective.

Section 8, effective when law, would modify Section 4 of S.L. 2020-61 with new definitions and clarifications to that section.

Section 9, effective January 1, 2022, would require the Department of Transportation to add transportation improvements intended to be designated as public to the State highway system for maintenance pursuant to G.S. 136-102.6(d) no later than 90 days after receipt of the filing of the certificate of completion by the division engineer of record.

EFFECTIVE DATE: Except as otherwise noted, the act is effective when the bill becomes law.

Trina Griffin and Billy Godwin, Staff Attorneys, substantially contributed to this summary.